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prepared by the Division of Advocacy and Health Policy

Congress passes stopgap payment measure

Just before its holiday recess, Congress passed legislation providing a modest increase in Medicare physician payments for the first six months of 2008. President Bush signed the law on December 29, 2007. Instead of reducing the Medicare fee schedule conversion factor by 10.1 percent as required by the sustainable growth rate (SGR) system, the Medicare, Medicaid and State Children's Health Insurance Program Extension Act of 2007 calls upon the Centers for Medicare & Medicaid Services (CMS) to increase payments by 0.5 percent for all services provided between January 1 and June 30. Beginning July 1, the 10.1 percent reductions from 2007 payment levels will take effect, unless Congress intervenes again.

Congress was compelled to enact this very limited measure because of disagreements over the scope and cost of more comprehensive Medicare reforms. In particular, legislators could not agree on how to achieve the spending cuts necessary to offset the estimated \$262 billion, 10-year cost of eliminating the SGR altogether and implementing a new physician payment update system based on annual rates of Medicare inflation. The House passed legislation this past summer containing these provisions, which also would have established six separate fee schedule updates based on type of service—including a separate category for major surgical procedures, as proposed by the College. However, once again, legislators disagreed about the offsetting budget cuts.

Although this latest measure offers some relief in that the major payment reduction will not occur on January 1 as anticipated, the College and other medical and surgical specialty societies are discouraged by the prospects of revisiting the issue immediately in the new year. Thousands of Fellows wrote to and called their respective state senators and representatives in the closing days of the legislative session to urge passage of a more comprehensive proposal.

CMS has announced that, in light of the change in 2008 payment rates, it will provide an additional 45-day period for physicians to decide whether to sign Medicare participation agreements. Physicians now have until February 15 to select whether to participate. In making this decision, it is important that surgeons appreciate the uncertainty of Medicare payment rates after July 1, especially since CMS has not indicated whether physicians will be allowed to revisit participation if the mid-year reductions occur. For more information on surgeons' payment options under Medicare, go to http://www.facs.org/fellows_info/bulletin/cebuhar0802.pdf, and <http://www.facs.org/ahp/pubs/whatsurg0207.pdf>.

ACS launches strategic response

The American College of Surgeons realizes that we have a big job ahead in the coming months with respect to Medicare payment and other advocacy issues, so this organization began strategizing for action in 2008 during the last quarter of 2007. For example, on March 9–11, we will host the first Joint Surgical Advocacy Conference with a number of the surgical specialty societies. We expect this event to attract hundreds of participants and give surgery the presence it needs on Capitol Hill. We also have new communications strategies planned to keep the

College's membership and leadership better informed about legislative and regulatory issues and activities. Furthermore, we will continue our efforts to coordinate and collaborate with surgical and medical specialty societies to ensure that our voice is strong and united.

CMS announces new NPI policy

CMS has announced that, effective March 1, Medicare fee-for-service claims must include a National Provider Identifier (NPI) in the primary fields on the claim, such as in the billing, "pay to," and rendering fields. Surgeons may continue to submit claims with NPI/legacy number pairs in these fields or submit only their NPI. Providers may *not* submit claims containing only a legacy identifier in the primary fields. CMS will reject or return as "unprocessable" any claims omitting a NPI in the primary fields. Until further notice, CMS is continuing to allow legacy identifiers only for the secondary fields.

It is important to note that participants in Medicare's Physician Quality Reporting Initiative (PQRI) must use NPIs correctly in submissions of quality reporting data. Surgeons who intend to submit PQRI measures as of January 1 must use the NPI, even though Medicare permits legacy numbers on claims until March 1. For more information, contact dmariani@facs.org.

Public hearing on general surgery in Georgia

The Georgia Board of Community Health sponsored a public hearing on November 28, 2007, regarding a series of proposed amendments to the state's certificate of need (CON) program. Of particular interest was an amendment that would recognize general surgery as a single specialty for purposes of exemption from the CON program for ambulatory surgery centers. Currently, other surgical specialties, such as orthopaedics and plastic surgery, are eligible for the single-specialty exemption. However, Georgia defines general surgery as a multispecialty, thereby preventing general surgeons from applying for the exemption.

Testimony offered at the hearing was impassioned and overwhelmingly in favor of recognizing general surgery as a single specialty. More than 25 general surgeons, other surgical specialists, patients, and representatives of Georgia medical organizations and the American College of Surgeons filled the Atlanta hearing room. In addition, more than 150 Georgia Fellows sent letters of support through the Surgery State Legislative Action Center.

The Board of Community Health took into account the strong support of the general surgery community and voted to formally adopt the rules on December 13, 2007. On December 31, the Georgia Alliance of Community Hospitals and the Georgia Hospital Association filed their lawsuit as promised against the Board and against Albany Surgical PC.

In addition, legislative activity on this issue is expected during the current session of the Georgia General Assembly, and all Georgia surgeons will be contacted to become engaged in advocacy initiatives with their state legislators. For more information, contact jsutton@facs.org.